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October 21, 1997

VIA HAND DELIVERY

David Waddell, Executive Secretary  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37238

Re: *Universal Service Generic Contested Case*  
Docket No. 97-00888

Dear Mr. Waddell:

Enclosed are the original and thirteen copies of BellSouth Telecommunications, Inc.'s Response to Staff Status Report in the above-referenced matter. A copy has been provided to counsel of record.

Very truly yours,

Guy M. Hicks

GMH:ch

Enclosure

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**  
**Nashville, Tennessee**

**In Re:   *Universal Service Generic Contested Case***

**Docket No. 97-00888**

**BELLSOUTH TELECOMMUNICATIONS, INC.'S**  
**RESPONSE TO STAFF STATUS REPORT**

**I. INTRODUCTION**

BellSouth Telecommunications, Inc. ("BellSouth") appreciates the opportunity to respond to the Staff's Status Report summarizing the Technical Conference held on October 14, 1997, and respectfully submits the following comments.

**II. DISCUSSION**

**A.   Staff's Proposed New Issues**

The Staff has proposed nine additional issues for the Tennessee Regulatory Authority ("TRA") to consider in Phase I of these proceedings. BellSouth has no objection to five of these issues, specifically Issue 9(a) -- whether universal service cost studies should be company-specific or generic; 9(f) -- whether universal service cost studies should be based on cost studies for permanent unbundled network element prices; Issue 9(g) -- whether costs should be developed on a combined or intrastate basis; Issue 9(h) -- whether state specific or federal (i.e., default) factors should be used in universal service cost studies; Issue 9(i) -- whether it is possible to create a hybrid cost model from the individually proposed models.

BellSouth objects to Issue 9(j) as it is currently phrased. According to the Staff, Issue 9(j) involves "[w]hich network elements should be included in the revenue benchmark." However, services, not network elements, should be the proper focus of the TRA's inquiry in this proceeding. For example, the FCC proposed calculating a nationwide revenue benchmark based on average revenues per line for local, discretionary services (such as call waiting and caller ID), interstate and intrastate access services, and revenues from other telecommunications services purchased by *retail* customers. *In re: Federal-State Joint Board on Universal Service*, Report and Order, CC Docket No. 96-45 ¶¶ 257-67 (May 8, 1997). Although BellSouth disagrees with the FCC's decision to calculate the benchmark by including services that include the implicit support which explicit universal service support is meant to replace (*e.g.*, access charges and vertical features), the FCC never suggested that revenues from network elements purchased by *wholesale* customers should be considered in calculating the benchmark. BellSouth submits that Issue 9(j) should be revised accordingly.<sup>1</sup>

Insofar as proposed issue 9(k) is concerned, the revenue benchmark represents the amount of revenue that corresponds to (i.e., that can be derived from) the provision of universal service at any given time. Thus, BellSouth does not

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<sup>1</sup> Likewise, Staff Issue 9(e) should be modified as well to eliminate the reference to "network elements." According to the Staff, Issue 9(e) involves "[w]hich network elements are necessary to provide services included in universal service?" Although the Status Report references AT&T and BellSouth Issue 5(a)(vi) as the source for this issue, Staff Issue 9(e) and AT&T/BellSouth Issue 5(a)(vi) bear no resemblance to one another. Issue 5(a)(vi) as proposed by AT&T and BellSouth, was "What elements should be included in the revenue benchmark for a Tennessee system." This has nothing to do with "network elements" or the services to be included in universal service, and BellSouth does not agree that Issue 9(e) as crafted by the Staff is an appropriate issue in this proceeding.

understand the reference in Issue 9(k) to "the time period" to be used in calculating the revenue benchmark and is unable to comment on the propriety of its inclusion.

BellSouth objects to the Staff's proposal to add two issues -- Issues 8(d) and (e) -- which will only lengthen and unduly complicate an already lengthy and complicated proceeding. Issues 8(d) and (e) pertain to implicit subsidies in existing services (*e.g.*, switched access and vertical features) and presuppose that the TRA will or is required to calculate the amount of such implicit subsidies. Apparently, the Staff expects the TRA to make such a calculation by considering the cost of providing such services in comparison to the revenues from such services. However, there is simply no reason for the TRA to engage in such a process.

The TRA's task is to create an explicit universal service funding mechanism. Although there may be disagreement about the size of the fund and how it should be calculated, the parties generally agree that explicit universal service support should be revenue neutral. In other words, a carrier would be required to reduce its rates to offset the net amount received from the State universal service fund. Such reductions primarily would be made in the rates for services that currently include implicit universal service support, since the rates for such services have been maintained at artificially high levels and are more susceptible to competitive pressures.

A revenue neutral universal service fund means that the present system of implicit support will resolve itself. Once an explicit funding mechanism has been created and once carriers begin reducing rates to offset the net amounts received

from the fund, existing implicit universal service support will be replaced by explicit support as required by federal law. Thus, there is simply no need for the TRA to consider studies to determine the cost of various services that currently subsidize universal service or to calculate the amount of such implicit subsidies, as proposed Issues 8(d) and (e) suggest.

**B. Issues To Be Addressed By Briefs Rather Than Testimony**

BellSouth agrees with the Staff that certain issues in Phase I of this proceeding can be resolved on the basis of briefs without consideration of testimony. However, BellSouth believes that the only issues that can or should be so resolved are issues that are essentially legal and that do not require significant policy decisions by the TRA. The fact that an issue may be close to "settlement," at least according to the Staff, is not necessarily determinative.<sup>2</sup>

For example, although the parties may not disagree significantly on the services that should be subject to universal service support (Issues 1(a) - (c)), this issue is too important from a public policy standpoint to be decided on the basis of briefs alone. The TRA should be able to hear from and question witnesses about whether, as a matter of public policy, Tennessee should support single line business lines and nonprimary residential lines, as several parties have proposed.

However, BellSouth believes that the following Phase I issues can be resolved on the basis of legal briefs alone:

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<sup>2</sup> The Staff has asked for comments on whether a settlement is possible on each of the proposed issues. BellSouth is unable to provide any meaningful response to this request at this time because it has not discussed settlement with the numerous parties involved in this proceeding. However, BellSouth is willing to discuss settlement after the parties have submitted their briefs.

Issue 1(d)	Tennessee Relay Center
Issue 1(e)	Public interest payphones
Issue 2	Requirement that all carriers be able to provide all elements of universal service
Issue 3	Eligible Telecommunications Carriers
Issue 5	Service areas
Issue 6	Carriers providing universal service support
Issue 10	Low income consumer support
Issue 11	School and library support
Issue 12	Health care provider support
Issue 14	Changes in state law or rules

The remaining issues should be resolved on the basis of testimony.

**C. Phase II Issues**

BellSouth objects to incorporating "access reform issues" in Phase II of this proceeding (Staff's Proposed Issue 15). During Phase II as it currently is envisioned, the TRA will be required to select a universal service cost model and make decisions about the appropriate inputs. This will be a complex and very technical process. No compelling need exists for the TRA to assume the additional burden of resolving questions about "access reform" at the same time.

Furthermore, the parties generally agree that an explicit universal service fund must be established before any rate adjustments, including access charge adjustments to remove implicit universal service subsidies, can be accomplished. Indeed, even AT&T acknowledges that "the universal service docket should have

sequential priority over the access charge reform docket." (AT&T's Comments at 23). Since an explicit universal service fund will not exist in Tennessee until some time after completion of Phase II of these proceedings, the TRA should delay consideration of "access reform" issues until that time as well.

**D. Phase I and Phase II Schedules**

BellSouth has no objection to the proposed Phase I schedule. However, BellSouth objects to any suggestion that the parties agreed that discovery was appropriate in Phase I of this proceeding. See Status Report at 2, n.1 ("After much discussion among the parties on the need for discovery in Phase I it was decided that discovery was necessary and dates were built into the proposed schedule"). Several parties, including BellSouth, steadfastly stated their view that discovery was unnecessary at this juncture, and no party at the Technical Conference was able to articulate any subject on which discovery was required.

BellSouth's only substantive comment to the proposed Phase II schedule concerns the Technical Conference on January 20, 1998. To the extent the conference will only involve an overview of the various cost methodologies, BellSouth has no objection. However, to the extent the Staff expects the parties to present completed cost models at the Technical Conference, BellSouth is concerned that the parties will not be able to do so by January 20, given that the TRA's decision on the Phase I issues will not be made until January 13. More than one week may be necessary to make modifications to the models and the inputs depending upon the TRA's decisions in Phase I.

conference will only involve an overview of the various cost methodologies, BellSouth has no objection. However, to the extent the Staff expects the parties to present completed cost models at the Technical Conference, BellSouth is concerned that the parties will not be able to do so by January 20, given that the TRA's decision on the Phase I issues will not be made until January 13. More than one week may be necessary to make modifications to the models and the inputs depending upon the TRA's decisions in Phase I.

**D. Cost Model Inputs And Assumptions**

Under the proposed Phase II schedule, the universal service cost models will not be filed until January 30, 1998, and a decision on which model and which inputs should be used will not be made by the TRA until May 5, 1998. However, the Staff has proposed that the parties provide detailed information about the universal service cost model methodologies and inputs in response to Issue 16 by November 14, 1997. BellSouth objects to this proposal.

The explanation put forth by the Staff for requiring responses to Issue 16 by November 14 is that such information "will be useful should the FCC not extend the February 6, 1998, deadline for states to file cost studies for their consideration." BellSouth is concerned that this information may be used on a stand-alone basis. Although the information contemplated by Issue 16 is comprehensive, it would not afford an adequate basis for the TRA to select a universal service cost model, particularly when the models themselves are not



expected to be filed in Tennessee until January 30, 1998, and there is no provision for a hearing to consider the models in Tennessee until well after the February 6 deadline.

Also, whether by happenstance or design, November 14 is three days before the hearings in Docket No. 97-01262 are expected to begin. This may suggest that the Staff intends to consider whatever information is provided in response to Issue 16 in this proceeding in the establishment of BellSouth's "permanent" prices for unbundled network elements and interconnection services in Docket 97-01262. However, it would be inappropriate for the Staff to do so as the goal of these two proceedings are very different, and the cost models that are presented in these two proceedings should also be different.

In Docket 97-01262, the TRA will be establishing "permanent prices" for more than 200 services and elements that competing carriers purchase from BellSouth. These prices are based on wholesale costs and, once established, will replace the interim rates set in the arbitrations. Thus, the cost studies that the TRA must consider should reflect the cost of interconnecting to and purchasing parts of BellSouth's network on a going forward basis.

By contrast, universal service cost studies are not company-specific since universal service support is "transferable to competing eligible telecommunications carriers." *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order ¶ 273). Furthermore, in this proceeding, the TRA must calculate

the universal service costs associated with only a limited set of services. *Id.* ¶ 56 (defining the "core" or "designated" services that will receive universal service support). In so doing, the TRA must consider retail cost components such as product management and marketing and customer services that are not included in the wholesale costs presented in Docket 97-01262.

Although the FCC encouraged states, "to the extent possible," to use ongoing proceedings for developing permanent unbundled network element prices as a basis for universal service cost studies, the FCC was simply concerned about "reduc[ing] duplication and diminish[ing] arbitrage opportunities that might arise from inconsistencies between the methodologies for setting unbundled network element prices and for determining universal service support levels." (*Id.* ¶ 251). The FCC did not, nor could it, mandate that, for purposes of calculating federal universal service support, a state must use the same cost study used to set unbundled network element prices. Indeed, the FCC recognized "the difficulties inherent in using state cost studies designed for pricing unbundled network elements for universal service purposes ...." (*Id.*) (quoting Letter from Julia L. Johnson, Florida Public Service Commission, to Reed Hundt, dated April 22, 1997). Consequently, the TRA should establish prices in Docket 97-01262 based on the merits of the cost studies presented in that proceeding, whether or not such studies are applicable to establish the cost of universal service in this proceeding.

It is also erroneous to believe that whatever cost study the TRA adopts in Docket 97-01262 can simply be used in the universal service proceeding. BellSouth's cost studies in Docket 97-01262 cannot be used to establish the cost of universal service, and BellSouth readily acknowledges as much. That is the reason BellSouth proposes use of the Benchmark Cost Proxy Model version 2.0 (BCPM 2.0) in the universal service proceeding. Although the Hatfield Model ostensibly can be used to calculate the cost of universal service as well as the cost of fourteen unbundled network elements, it is inconceivable that the TRA would adopt the Hatfield Model for universal service purposes before BCPM 2.0 has even been presented, even assuming it decided to use the Hatfield Model in Docket 97-01262. Furthermore, to the extent there are parties in this proceeding who are not parties in Docket 97-01262, serious due process concerns would arise were the TRA to adopt a cost model for universal service support purposes before giving all interested parties the opportunity to be heard.

Although BellSouth is sensitive to the Staff's desire for adequate information as it prepares for Phase II of the universal service proceeding, BellSouth believes no compelling reason exists for the parties to respond to Issue 16 before November 14, 1997. Instead, BellSouth proposes that the parties conduct a technical workshop after Docket 97-01262 has been concluded. During this workshop, the parties could present their respective universal service cost models and can answer any questions the Staff might have about the methodologies and inputs.

**E. Access Reform Issues**

BellSouth does not believe that the TRA should consider "access reform" until after completion of Phase II of this proceeding. Consequently, BellSouth does not believe that it is necessary for the TRA or the parties to formulate a list of "access reform" issues by November 14, 1997.

Furthermore, BellSouth believes that it would be unlikely that the parties could jointly agree to a list of such issues beyond those that were identified by Hearing Officer Kyle in her request for comments. The parties have a fundamental disagreement about the need for and legal basis of the "access reform" proposed by AT&T.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I hereby certify that on October 21, 1997, a copy of the foregoing document was served on the parties of record, via U. S. Mail, postage pre-paid, addressed as follows:

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